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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

THE UNITED STATES OF AMERICA, ex  
rel. MICHAEL T. BROOKS,

Plaintiff,

v.

TRILLIUM COMMUNITY HEALTH  
PLAN, INC.; AGATE RESOURCES, INC.;  
and LANE INDIVIDUAL PRACTICE  
ASSOCIATION, INC.,

Defendants.

Case No.: 6:14-cv-01424-MC

**DECLARATION OF STEPHEN H.  
GALLOWAY IN SUPPORT OF  
DEFENDANTS' MOTION TO  
ENFORCE PROTECTIVE ORDER**

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I, Stephen H. Galloway, hereby declare and state as follows:

1. I am an attorney at Stoel Rives LLP and am one of the attorneys representing Trillium Community Health Plan, Inc. ("Trillium"); Agate Resources, Inc. ("Agate"); and Lane

Individual Practice Association, Inc. (“LIPA,” collectively Defendants”) in the above-captioned action. I make this declaration based on personal knowledge.

2. Earlier in this proceeding, counsel for relator Michael T. Brooks (“Relator”) acknowledged that Relator had retained possession of a large quantity of Defendants’ documents and information, including many documents containing PHI. Relator has never provided copies or detailed the scope of the documents he retained.

3. Although the Protective Order requires Relator to return or destroy all Confidential documents at the conclusion of this action, which concluded on June 6, 2018, Defendants allowed Relator to retain possession of those documents while his other actions against Defendants were pending. Because the documents potentially could have been relevant to those proceedings, Defendants did not demand that Relator return or destroy the Confidential documents while those other actions remained pending.

4. Relator filed a complaint with the U.S. Department of Labor alleging violations of the whistleblower protection provisions of the Affordable Care Act (“ACA”) and the Sarbanes-Oxley Act of 2002 (“SOX”), Case No. 2016-SOX-00037 (the “First DOL Action”). The U.S. Department of Labor’s Administrative Review Board (“ARB”) affirmed the dismissal of the First DOL Action by order dated March 25, 2019, a true and correct copy of which is attached hereto as Exhibit 1.

5. On July 3, 2018, Relator filed a second complaint with the U.S. Department of Labor, again asserting allegations of the whistleblower protection provisions of the ACA and SOX, Case No. 2018-SOX-00046 (the “Second DOL Action”). The ARB affirmed the dismissal of the Second DOL Action by order dated April 21, 2020, a true and correct copy of which is attached hereto as Exhibit 2.

6. Relator filed another lawsuit against Agate in the District of Oregon that asserted a variety of whistleblower retaliation, employment discrimination and other related claims. (*See Brooks v. Agate Resources, Inc.*, District of Oregon Case No. 6:15-cv-00983-MK (the “Employment Lawsuit”).) The Ninth Circuit affirmed the District of Oregon’s order and judgment dismissing the Employment Lawsuit with prejudice by order dated November 5, 2020, and it issued its mandate on November 27, 2020. Attached hereto as Exhibit 3 and Exhibit 4 are true and correct copies of the order and mandate.

7. Relator also filed a premature petition for writ of certiorari to the U.S. Supreme Court in which he described some records of college students and medical treatment they received, potentially disclosing PHI. That petition is available upon request.

8. Relator has recently begun making threats to disclose Defendants’ confidential information in his possession to third parties, and a recent email suggests that he *has* provided confidential documents to a third party. Attached hereto as Exhibit 5 is a true and correct copy of an email received from Relator on May 21, 2020, in which Relator refers to “pregnancy records” and “national news coverage.” Attached hereto as Exhibit 6 is a true and correct copy of an email received from Relator on September 4, 2020, in which he references sending Confidential documents to a “third party that will make everything public” if Relator is “harmed.”

9. Attached hereto as Exhibit 7 is a true and correct copy of a letter dated October 9, 2020, in which I demanded that Relator return or confirm that he has destroyed all of the Confidential information (including copies thereof) in his possession. Relator did not respond to the letter.

10. Attached hereto as Exhibit 8 are true and correct copies of emails with Relator attempting to schedule a call to confer on this Motion. Relator did not respond to two direct requests to schedule the call.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: December 22, 2020.

/s/ Stephen H. Galloway  
Stephen H. Galloway

### CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2020, I filed a copy of foregoing document with the Clerk of the Court for the United States District Court– District of Oregon by using the CM/ECF system. Participants in this Case No. 6:14-cv-01424-MC who are registered CM/ECF users will be served by the CM/ECF system.

- ☒ mailing with postage prepaid
- ☐ overnight delivery
- ☐ Email
- ☒ notice of electronic filing using the CM/ECF system

Michael T. Brooks  
32713 Vintage Way  
Coburg, OR 97408

DATED: December 22, 2020.

STOEL RIVES LLP

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